

iii. If desired, counsel for the Department and the provider, (7-1-93)

d. The Hearing Officer will render a preliminary decision in writing within forty-five (45) days of the hearing and the decision will stand pending exceptions pursuant to the provisions contained in Subsection 330.01.g. (7-1-93)

332. DIVISION OF WELFARE - MEDICAID-ADMINISTRATIVE HEARING PROSPECTIVE COST RELATED -- PROVIDER REIMBURSEMENT. (7-1-93)

01. If any facility or provider wishes to contest the way in which a rule or contract provision relating to the prospective, cost-related reimbursement system was applied to such facility by the Director, it shall first pursue the administrative review process set forth in Section 56-133, Idaho Code, and in this section. (7-1-93)

02. The administrative review process set out in this section need not be exhausted if a facility wishes to challenge the legal validity of a statute, rule, or contract provision pursuant to Section 67-5278, Idaho Code. (7-1-93)

03. Administrative Review Process. (7-1-93)

a. Within thirty (30) days after a facility or provider is notified of an action or a final determination or receives a final audit report it wishes to challenge, such facility or provider shall request in writing that the Director or his designee review such determination. The request shall be signed by the licensed administrator of the facility or by the provider, shall identify the challenged determination and the date thereof, and shall state as specifically as practicable the grounds for its contention that the determination was erroneous. Copies of any documentation on which such facility or provider intends to rely to support its position shall be included with the request. However, documentation related to cost items shall be limited by the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 5, Chapter 2, Subsection 100.01., "Rules Governing Audits of Providers," for appeals of final audit reports. (7-1-93)

b. After receiving a request meeting the above criteria, the Director or his designee shall contact the facility to schedule a conference for the earliest mutually convenient time. The conference shall be scheduled for not later than thirty (30) days after a properly completed request is received, unless both Parties agree in writing to a specified later date. (7-1-93)

c. The facility or provider and the Director or his designee shall attend the conference. In addition, representatives selected by the facility or provider, or the Director or his designee may attend and participate. The facility or provider shall bring to the conference, or provide to the Director in advance of the conference, any copies of previously submitted documentation on which the facility or provider intends to rely to support its contentions as detailed in Subsection 332.03.a. The Parties shall clarify and attempt to resolve the issues at the conference. If additional documentation is needed to resolve the issues, a second session of the conference shall be scheduled for not later than thirty (30) days after the initial session, unless both Parties agree in writing to a specific later date. (7-1-93)

d. A written decision by the Director or his designee will be furnished to the facility or provider within thirty (30) days after the conclusion of the conference. (7-1-93)

e. If the facility or provider desires review of an adverse decision of the Director or his designee it shall, within twenty-eight days following receipt of such decision, request a hearing in writing on the contested matter, in accordance with the provisions of Section 67-5240 et seq., Idaho

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Code. Under these provisions only issues and documentation that were presented to the Director or his designee shall be admissible in the administrative hearing before the Hearing Officer. (7-1-93)

f. The Hearing Officer shall issue a preliminary decision and order on the matter within forty-five (45) days. (7-1-93)

g. Either Party to the contested matter may, within fourteen (14) days of receiving the preliminary decision and order, take exceptions to the Director or his designee, pursuant to Section 67-5245, Idaho Code. If exceptions are taken, briefs and oral arguments may be presented to the Director or his designee, and a final determination shall be issued within fifty-six (56) days. If no exceptions are taken by either Party of the contested matter after fourteen (14) days, the Director or his designee shall affirm the Hearing Officer's recommended decision and order within fourteen (14) days of receipt of that preliminary decision and order. (7-1-93)

04. If a provider has a grievance or complaint or requests an exception to the requirements of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 10, Sections 450. through 499., "Rules Governing Medicaid Provider Reimbursement in Idaho," the provider can invoke the following procedures: (7-1-93)

a. Within thirty (30) days after a provider receives notification of an action or determination, and it has any grievance, complaint, or exception, the provider shall identify in writing to the Bureau of Medical Assistance the specific issues involved and specifically describe the disputed action or inaction regarding such issues and the grounds for its contention that an action or determination was erroneous. Any information and copies of any documentation on which the facility intends to rely to support its position shall be included with the initial filing of the dispute. (7-1-93)

b. The Bureau of Medical Assistance shall acknowledge the written grievance, complaint, or exception and transmit its response to the provider within thirty (30) days. (7-1-93)

c. If a provider disputes the conclusions and reasons found in the Bureau of Medical Assistance's response, the provider can request that the Bureau conduct an informal conference to resolve the issues in dispute. (7-1-93)

i. The request for an informal conference shall: (7-1-93)

(a) Be in writing; (7-1-93)

(b) Be specific as to all issues in question; (7-1-93)

(c) Set forth the specific dollar value in question; and (7-1-93)

(d) Be supplemented with any pertinent documentation relevant to the provider's contentions, as requested by the Bureau prior to the informal conference within thirty (30) days. (7-1-93)

ii. The results of the informal conference shall be transmitted to the provider in the form of a written letter of findings. (7-1-93)

d. If no request for an informal conference is made pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 10, Subsection 500.03., "Rules Governing Medicaid Provider Reimbursement in Idaho," within thirty (30) days of the provider's receipt of the initial response to the dispute, or if no response containing the supplemental information requested by the Department prior to the scheduling of an informal conference, and no good reason why such information is not available to the Department, the initial action or determination per Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 10, Subsection 500.03., "Rules

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Governing Medicaid Provider Reimbursement in Idaho," shall be final; or (7-1-93)

i. If a provider is not satisfied with the decision reached in an information conference conducted under the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 10, Subsection 500.04., "Rules Governing Medicaid Provider Reimbursement in Idaho," it can refer the grievance, complaint, or exception to the Administrator of the Division of Welfare, for an additional review; and (7-1-93)

ii. After considering all findings and recommendations, the administrator shall make a final determination and so advise the provider, in writing, by certified mail with a return receipt addressed to the Hearing Coordinator. Copies of the administrator's final determination are also to be forwarded to the Bureau of Medical Assistance. (7-1-93)

e. After appealing the disputed action or determination to the Bureau of Medical Assistance and receiving the administrator's final determination regarding the findings and recommendations, the provider can make a request to the Department for an administrative hearing on any grievance, complaint, or exception in dispute. (7-1-93)

i. Any such hearing shall be conducted in compliance with the provisions of this section. The filing of a request for a formal hearing on a disputed payment under the applicable provisions of the Idaho Administrative Procedures Act, Sections 67-5240 et seq., Idaho Code, is valid only after the provisions in Section 56-133, Idaho Code and in Subsection 330.01.b. through 330.01.e. have been exercised, thus exhausting the informal appeal remedies. (7-1-93)

ii. The request shall be filed within thirty (30) days following receipt of the administrator's final determination. (7-1-93)

(a) The hearing request shall be in writing. (7-1-93)

(b) The hearing request shall specify the items still in dispute addressed but not resolved during the informal appeals process. Failure to so specify remaining disputed items shall void the request. (7-1-93)

iii. Parties to the Hearing. In addition to those Parties specified in Subsection 005.09., Parties to the hearing are to include the following: (7-1-93)

(a) A representative from the Bureau of Medical Assistance; (7-1-93)

(b) A representative from the provider; and (7-1-93)

(c) If desired, counsel for the Department and the provider. (7-1-93)

.05. The Hearing Officer shall render a preliminary decision in writing within forty-five (45) days of the hearing and such decision will stand pending exception pursuant to the provisions contained in Subsection 330.01.g. (7-1-93)

333. DIVISION OF WELFARE -- MEDICAL ASSISTANCE. In accordance with Title 67, Chapter 52, Idaho Code, a facility or provider in the Medical Assistance Program which has exhausted all administrative remedies available within the Department and Sections 330., 331., or 332. may seek Judicial Review. Proceedings for Judicial Review shall be instituted in accordance with Section 67-5270, Idaho Code. (7-1-93)

334. -- 349. (RESERVED).

To Division
For Conference

Hearing

350. DIVISION OF WELFARE -- FOOD STAMP CONFERENCES AND ADMINISTRATIVE HEARINGS. The following subsections are rules governing hearing and dispute resolution for food stamp programs. (7-1-93)

01. Agency Conferences. An agency conference is an informal meeting between the client and the Department. The Department must offer agency conferences to clients affected by an adverse Department action for food stamp benefits. The Department must advise clients that an agency conference is optional and it will not delay or replace the fair hearing process. (7-1-93)

a. The agency conference must be attended by an eligibility supervisor or program manager and by the client or his representative. The agency conferences may be attended by the eligibility examiner responsible for the action taken. (7-1-93)

b. A fair hearing must be held unless the client makes a written withdrawal of his request for a hearing. An agency conference may lead to an informal resolution of the dispute. (7-1-93)

c. An agency conference for clients contesting a denial of expedited service must be scheduled within two (2) working days. This limit does not apply when the client requests a later time or states that he does not want an agency conference. (7-1-93)

02. Fair Hearings. A client must be provided with a state level fair hearing when a Department action affects his household's food stamp benefits. A client must be provided with a state level fair hearing when he feels he has been wronged by the Department. This right excludes the household's placement on an alternate issuance system. Prompt, definitive, and final administrative action must be taken within sixty (60) days of the hearing request. (7-1-93)

03. Hearing Request and Representation. A client can request a hearing by any clear statement, oral or written, that he wishes to appeal a Department decision. The request can be from a household member, authorized representative, a representative for developmentally and mentally retarded clients as defined in Subsection 300.02, or a person acting on the household's behalf who may be a legal representative, relative, or friend, and such representative shall have all the rights and responsibilities of the client as provided by these rules and by IDAPA 16, Title 3, Chapter 4, Rules Governing the Food Stamp Program in Idaho. The right to make the request must not be limited or interfered with by the Department. (7-1-93)

a. The client must file for a fair hearing within ninety (90) days of Department's adverse action affecting food stamp benefits. The Department's adverse action includes a loss of benefits in the prior ninety (90) days and denial to restore benefits lost less than one (1) year prior to the request. A client may request a hearing on the household's current level of benefits. (7-1-93)

b. The Department must assure that the hearing is conducted, a decision is reached, and the client and Department are notified of the decision within sixty (60) days of receipt of a fair hearing request. (7-1-93)

c. The client can request, and must be granted a hearing postponement, not to exceed thirty (30) days. The time limit for the Department's response must be extended for as many days as the hearing is postponed. (7-1-93)

d. The Department must expedite hearing requests from clients, such as migrant farm workers, planning to move before the hearing decision would normally be reached. These hearing requests must be processed quickly to reach a decision and restore benefits, if indicated, before the client leaves the area. (7-1-93)

04. Department Assistance. Upon request, the Department shall make available, without charge, the specific materials necessary for a household or its representative to determine whether a hearing should be requested or to prepare for a hearing. (7-1-93)

a. The Department must advise the client of legal services available for help at the hearing. (7-1-93)

b. Upon request the Department must help the client make his hearing request. (7-1-93)

c. The Department must provide an interpreter and ensure that the hearing procedures are explained in the appropriate language, if the individual speaks a language other than English. (7-1-93)

05. Denial or Dismissal. A request for a hearing must not be denied or dismissed unless: (7-1-93)

a. The client withdraws the request in writing; or (7-1-93)

b. The client abandons the request by failing, without good cause, to appear at the scheduled hearing. If the claimant shows good cause for failure to appear within ten (10) days from the date of the scheduled hearing, the hearing will be rescheduled; or (7-1-93)

c. The request is not received within the period specified in these rules; or (7-1-93)

d. The request for hearing is due to an alternate coupon issuance system for the client. Alternate issuance placement and length of placement are not subject to fair hearings. (7-1-93)

06. Group Hearings. A series of individual requests for hearings can be combined into a single group hearing if the sole issue is one of federal law, regulation, or policy. The rules governing individual hearings must be followed. Each claimant or representative must be permitted to present his own case. (7-1-93)

07. Notification. The client must be promptly informed by a "Notice of Decision" if benefits are reduced or terminated pending a hearing decision. (7-1-93)

08. Hearing Scheduling. The date, time, and place of the hearing must be accessible to the client. (7-1-93)

09. Hearing Advance Notice. Written notice of the hearing must be sent to all Parties involved at least ten (10) days before the hearing date. An Information on Fair Hearings Form, HW 0999, must be sent with the advance notice. The client may request a shorter advance notice to speed up scheduling of the hearing. The advance notice must include the following information: (7-1-93)

a. The date, time, and place of the scheduled hearing; (7-1-93)

b. The client or representative may examine the case file prior to the hearing; (7-1-93)

c. The name, address, and telephone number of the Person to notify if the client is unable to attend the scheduled hearing. (7-1-93)

d. Specify the Department will dismiss the hearing request if the client or representative fails to appear for the hearing without good cause; (7-1-93)

10. Hearing Attendance. Fair hearings or Intentional Program Violation (IPV) hearings must be attended by a Department representative and the client or client's representative. Hearing can be attended by friends and relatives of the client or by the public when the written consent of the client is filed with the Hearing Officer. The Hearing Officer can limit the number of persons if a space limitation exists. (7-1-93)

11. Telephone Fair Hearings. Telephone hearings are allowed if the Hearing Officer chooses to use this procedure and the client consents to the telephone hearing. Clients must be advised that they may have a face-to-face hearing unless the client, the client's representative, the Department's representatives, and all witnesses are in one (1) location and only the Hearing Officer is in another location. The client's hearing rights must be clearly explained to protect the client's rights to due process. (7-1-93)

12. Hearing Officer. The hearing official must be an impartial Party not in any way connected with the previous actions or decisions in the case being appealed. The hearing official must not be the immediate supervisor of the EE who took the action. Fair hearings must be conducted only by central office Personnel. The Hearing Officer is the Hearing Authority unless a separate authority is designated by the Department before the hearing. (7-1-93)

13. Fact-Policy Distinction. When benefits are continued pending a hearing decision, the Hearing Officer must rule at the hearing whether the issue is one of federal law, regulation, or policy, or is a matter of fact or judgment applicable to an individual case. If the hearing official rules that the issue is one of federal law, regulation, or policy, benefits must be reduced or terminated. (7-1-93)

14. Client Hearing Rights. The client or his representative has the following hearing rights: (7-1-93)

a. To have the hearing conducted informally, with basic rules of order, to arrive at the facts and make the client feel at ease; (7-1-93)

b. To examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing or during the hearing; (7-1-93)

c. The contents of the case file, including the application and documents of certification must be made available. Confidential information, such as the nature or status of an investigation expected to result in a criminal prosecution or the names of individuals who have disclosed information about the client without the client's knowledge, is protected from release. Confidential information that is protected from release must not be introduced at the hearing or affect the Hearing Officer's decision; (7-1-93)

d. To present the case himself or have it presented by legal counsel or other representative; (7-1-93)

e. To bring witnesses to support the appeal; (7-1-93)

f. To advance arguments without undue interference; (7-1-93)

g. To question or refute testimony or evidence and confront and cross-examine adverse witnesses; (7-1-93)

h. To submit case evidence showing pertinent facts and circumstances. (7-1-93)

15. Department Rights. The Department representative has the same rights as the client to counsel, present the case, examine documents, bring witnesses, advance arguments, and question and submit evidence. (7-1-93)

16. Hearing Record. The hearing record contains the verbatim transcript or recording of testimony and exhibits, or the official report summarizing the substance of the hearing. The hearing record contains all evidence and other material introduced at the hearing and any recommendations made by the Hearing Officer. If the hearing involves medical issues concerning a diagnosis or physician's report, the Hearing Officer may request an opinion from a medical Person other than the Person making the original determination. The opinion from a medical Person, at combined federal-state expense, must be from a source satisfactory to both the client and the Department. The second medical opinion will be a part of the hearing record. The hearing record must be accessible to the client or representative for copying and inspection at a reasonable time. Confidential information protected from release to the client must not be introduced at the hearing or used to affect the decision. (7-1-93)

17. Hearing Decision. Hearing decisions are rendered by the Hearing Authority in the name of the Department and are binding on the Department. The decision must be based exclusively on all issues questioned at the hearing and on the hearing record. Decisions must be in accordance with federal law, regulation, or policy. All hearing decisions must be accessible to the public and subject to the disclosure safeguards. Pursuant to Section 67-2405(10), Idaho Code, the Hearing Authority is delegated the authority to render a final order as set out in Section 67-5246, Idaho Code. (7-1-93)

18. Hearing Authority. The Hearing Authority makes the final administrative decision in a hearing. One Person may be both the Hearing Officer and authority but not any Person who took part in the action being appealed. The Hearing Authority is a Person or Persons expressly appointed by the Department. The Hearing Officer acts as both the Hearing Officer and authority unless a separate Hearing Authority is designated before the hearing. The Administrator of the Division of Welfare or his designee must serve as the Hearing Authority when the Hearing Authority is a Person other than the Hearing Officer. (7-1-93)

19. Decision Format. The decision must summarize the case facts, specify the decision and reasons, and identify the supporting evidence and pertinent regulations, and comply with Section 67-5248, Idaho Code. The decision is a part of the hearing record. (7-1-93)

20. Notification of Claimant. The client must be notified, in writing, of the decision and reasons for the decision. The client must be notified, in writing, of the right to appeal, and told that an appeal could result in a reversal of the decision. The client must be notified that benefits will be issued as decided by the Hearing Authority. (7-1-93)

21. Appeal Rights of Claimant. After an adverse hearing decision and exhaustion of all administrative remedies, the client has the right to appeal the decision to a district court within twenty-eight (28) days, pursuant to Section 67-5273(2), Idaho Code. The client must be notified, in writing, of his right to appeal the decision to a district court. (7-1-93)

22. Department Implements Hearing Decision Promptly. The Department must implement hearing decisions within sixty (60) days of the request for a fair hearing. The Department must restore benefits to clients leaving the project area before their departure if possible. If benefits are not restored prior to departure, the field office must forward an authorization to the client or the new project area. The field office in the new project area must accept an authorization and issue appropriate benefits. (7-1-93)

a. Decisions resulting in an increase must be reflected in the coupon allotment within ten (10) days of receipt of the hearing decision. The Department may implement the decision in the normal issuance cycle, more than ten (10) days, if the issuance will occur within sixty (60) days of the request for the hearing. The Department must issue a supplemental allotment, if necessary, to meet the timelines. (7-1-93)

b. Decisions resulting in a decrease must be reflected in the next scheduled issuance following receipt of the hearing decision. (7-1-93)

c. If the Hearing Authority determines a client has been improperly denied or issued a lesser allotment amount than was due, lost benefits must be issued. (7-1-93)

d. If the Hearing Authority upholds the Department's action, a claim for any overissuances must be prepared. (7-1-93)

351. DIVISION OF WELFARE -- FOOD STAMPS-- ADMINISTRATIVE DISQUALIFICATION HEARINGS. An administrative disqualification hearing must be held when the Department has evidence an individual client has allegedly committed one (1) or more acts of intentional program violations (IPV) regardless of the current eligibility of the individual. An administrative disqualification hearing must be held when the Department believes the facts of the case do not warrant civil or criminal prosecution. An administrative disqualification hearing must be held when cases referred for prosecution were declined, and in cases referred for prosecution where no action was taken within a reasonable period of time and the referral was withdrawn. (7-1-93)

01. Combining Administrative Disqualification Hearing and Fair Hearing. The Department may combine a fair hearing and an administrative disqualification hearing into a single hearing. The issues must be the same or related and the client must receive prior notice the hearings will be combined. If the disqualification hearing and fair hearing are combined: (7-1-93)

a. The Department must follow the time frames for conducting disqualification hearings. (7-1-93)

b. If the combined hearing is to settle the amount of the claim or overpayment and determine IPV, the client loses the right to a subsequent fair hearing on the amount of the claim and/or overpayment. (7-1-93)

c. The Department must, upon the client's request, waive the thirty (30) day advance notice period. (7-1-93)

02. Disqualification Hearing Procedures. The Department may use the same hearing officials for disqualification and fair hearings. The provisions for Fair Hearings are also applicable for disqualification hearings. The hearing official must advise the client or representative that he may refuse to answer questions during the hearing. (7-1-93)

03. Scheduling Disqualification Hearing. The time and place of the hearing must be accessible to the client or representative. (7-1-93)

a. If the client or representative fails to appear, without good cause, the hearing will be conducted. The Department must have proof the advance notice of a hearing has been received by the client or has proof the client has refused to accept delivery of the notice. The hearing official will consider the evidence and determine if an IPV occurred based solely on the information provided by the Department. (7-1-93)

b. If IPV is determined, but a hearing official later determines the client had good cause for not appearing, the previous decision is no longer valid. A new hearing must be conducted. The previous hearing official may conduct the new hearing. The client has ten (10) days from the date of the scheduled hearing to show good cause for failure to appear. The hearing official must enter the good cause decision into the record. (7-1-93)

c. If the client or representative cannot be located, the hearing will be conducted without the household member being represented. (7-1-93)

04. Advance Notice of Disqualification Hearing. The Department must provide written notice to the client suspected of IPV at least thirty (30)

days before the date of the disqualification hearing. A copy of the Department's IPV Administrative Disqualification Information Form, HW 0998, must be attached to the "Advance Notice of Disqualification Hearing" form. The notice must be mailed "Certified Mail - Return Receipt Requested." (7-1-93)

05. Postponement of Disqualification Hearing. The client or representative is allowed to postpone the hearing up to thirty (30) days. The postponement request must be made at least ten (10) days prior to the scheduled hearing. The Department must limit the number of postponements to one (1). If the hearing is postponed, the decision may be extended for as many days as the hearing is postponed. (7-1-93)

06. Benefits While Awaiting a Disqualification Hearing. A pending disqualification hearing does not affect a client's right to receive benefits if the client is otherwise eligible. The Department must determine the eligibility and benefit level as for any other client. The Department must end food stamp benefits if the certification period expires and the client fails to reapply for benefits. The Department must reduce or terminate benefits if it has documentation to support fewer benefits or ineligibility. Facts leading to the suspicion of IPV and a resulting disqualification hearing may be used to reduce or terminate benefits. The Department must reduce or terminate benefits if the client fails to request a fair hearing and continuation of benefits pending the hearing. (7-1-93)

07. Criteria for Determining IPV. The Hearing Officer must base the IPV determination on clear and convincing evidence introduced at the hearing. The evidence must show the client member committed and intended to commit an IPV. (7-1-93)

08. Deadlines for Disqualification Hearing Decision. The Department must conduct the hearing, arrive at a decision, and notify the client and the field office of the decision within ninety (90) days from the date the client is notified in writing a Department initiated hearing has been scheduled. (7-1-93)

09. Notification of Hearing Decision. The Department must notify the client of the hearing decision. The notice must say the hearing decision determined the client member did or did not commit an IPV. (7-1-93)

10. Disqualification Hearing Decision Format. The hearing official's decision must specify the decision reason, the supporting evidence, the pertinent regulation, and the client's response to reasoned arguments. (7-1-93)

11. Notice of Disqualification. The Department must mail a written "Notice of Disqualification" form to the client before the client is disqualified. The notice must inform the client of the decision and the reason for the decision. The notice must advise remaining household or budget unit members of the benefit amount they will receive. The notice must advise remaining household members they must reapply if the certification has expired. The notice must advise remaining budget unit members they must reapply if benefits have been terminated. (7-1-93)

a. Follow the procedures for handling income and resources of a disqualified member as described in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 4, "Rules Governing the Food Stamp Program in Idaho" for food stamp clients. Follow the procedures for handling income and resources of a disqualified member as described in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 1, "Rules Governing Eligibility for Aid to Families with Dependent Children (AFDC) for AFDC recipients." (7-1-93)

b. The Department must send a written "Demand Letter for Overissuance and Repayment Agreement" to the client when a food stamp overissuance has occurred or an AFDC overpayment has occurred. (7-1-93)

12. Imposing of Disqualification Penalties. The Department must not disqualify a member for an IPV until the hearing official determines the IPV. If the hearing official rules the client committed a food stamp IPV, the client must be disqualified in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 4, "Rules Governing the Food Stamp Program in Idaho". If the hearing official rules the client committed an IPV under the AFDC program, the client must be disqualified in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16, Title 3, Chapter 1, "Rules Governing Eligibility for Aid to Families with Dependent Children (AFDC)". (7-1-93)

a. The disqualification begins the month following the month the client receives written notice of the disqualification. (7-1-93)

b. The Department must inform the household member of: (7-1-93)

i. The date the disqualification will take effect; and (7-1-93)

ii. If the individual is no longer receiving benefits, the notice shall inform the individual that the period of disqualification will be deferred until the time the individual again applies for and is determined eligible for benefits. (7-1-93)

c. If the written notice for a first IPV is issued late in the month, and the client cannot be disqualified the month following the month of notice, follow the steps listed below: (7-1-93)

i. Step 1. Begin the disqualification two (2) months following the month of written notification; (7-1-93)

ii. Step 2. Invoke the penalty for five (5) rather than six (6) months as one (1) month has already elapsed. Establish a claim for overpaid benefits for the elapsed month; (7-1-93)

iii. Step 3. If more than two (2) months have elapsed, invoke the penalty for the remaining months. Establish a claim for overpaid benefits for the elapsed months. (7-1-93)

d. If the client is not receiving benefits when the disqualification period should begin, the disqualification is postponed until the client reapplies and is determined otherwise eligible. (7-1-93)

e. The period of disqualification must continue uninterrupted until completed, regardless of the eligibility of the disqualified member's household or budget unit, once the penalty is imposed. (7-1-93)

f. The same act of IPV, repeated over a period of time, must not be used to impose separate penalties based on a single hearing. (7-1-93)

13. No Fair Hearing Reversal for Disqualification. A fair hearing cannot reverse a disqualification hearing decision. (7-1-93)

14. Disqualification Reviewed by Court. The client is entitled to appear in court to reverse a disqualification decision. The period of disqualification may be subject to a stay by a court or another injunctive remedy. The client's right to appeal is governed by Subsection 350.21. (7-1-93)

15. Repayment of Overissuance or Overpayment to Disqualified Client. The disqualified client's household or budget unit is responsible for repayment of the overissuance or overpayment resulting from the disqualified member's IPV, regardless of the household or budget unit's eligibility or ineligibility. (7-1-93)

352. DIVISION OF WELFARE -- INDIVIDUAL AND FAMILY GRANT PROGRAM ADMINISTRATIVE HEARINGS. An applicant for benefits or services in the individual